

## **TEXT OF REGULATIONS**

### **ADOPT: CALIFORNIA CODE OF REGULATIONS**

#### **Title 4 Division 10, Chapter 2**

#### **The Children's Hospital Program**

### **Section 7030. Definitions**

The following words and phrases, as used in this chapter are defined as follows:

(a) "Act" means the Children's Hospital Bond Act of 2004 (Part 6 (commencing with Section 1179.10), Division 1, Health and Safety Code), approved by voters on November 2, 2004.

(b) "Administrative Costs" means actual costs incurred by the Authority and other state agencies as permitted by law for administering the Children's Hospital Program.

(c) "Applicant" means any Children's Hospital applying for program funding from the Children's Hospital Program.

(d) "Application Form" means the written request by an Applicant to the Authority for a Grant under the Children's Hospital Program which includes pages 1-9, Attachments A-C and all materials submitted with Form #CHFFA 5, Rev. 12-2004, for the First Funding Round. If necessary, the Application Form for the Second Funding Round and requisite regulations, if necessary, will shall be developed no later than at a future date but prior to June 1, 2014.

(e) "Audited Financial Statements" means an examination and report of the financial activities of the Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, for its fiscal year, performed by an independent accounting firm under generally accepted accounting principles.

In the case of the University of California Children's Hospitals, "Audited Financial Statements" means an examination and report of the financial activities of each individual University of California medical center that includes a University of California Children's Hospital, for its fiscal year, performed by an independent accounting firm under generally accepted accounting principles.

(f) "Authority" means the California Health Facilities Financing Authority.

(g) "Children's Hospital" means either:

- (1) A University of California general acute care hospital described as any one of the following:
  - (A) University of California, Davis Children's Hospital.

- (B) Mattel Children's Hospital at University of California, Los Angeles.
  - (C) University Children's Hospital at University of California, Irvine.
  - (D) University of California, San Francisco Children's Hospital.
  - (E) University of California, San Diego Children's Hospital.
- (2) A general acute care hospital that is, or is an operating entity of, a California nonprofit corporation incorporated prior to January 1, 2003, whose mission of clinical care, teaching, research, and advocacy focuses on children, and that provides comprehensive Pediatric Services to a high volume of children eligible for Government Health Insurance Programs and to children with special health care needs eligible for the California Children's Services program and:
- (A) Provided at least 160 licensed beds in the categories of pediatric acute, pediatric intensive care and neonatal intensive care in the fiscal year ending between June 30, 2001, and June 29, 2002, as reported to the Office of Statewide Health Planning and Development (OSHPD) on or before July 1, 2003.
  - (B) Provided over 30,000 total pediatric patient (census) days, excluding nursery acute days, in the fiscal year ending between June 30, 2001, and June 29, 2002, as reported to OSHPD on or before July 1, 2003.
  - (C) Provided medical education of at least eight (rounded to the nearest integer) full-time equivalent pediatric or pediatric subspecialty residents in the fiscal year ending between June 30, 2001, and June 29, 2002, as reported to OSHPD on or before July 1, 2003.

(h) "Children's Hospital Program" means the program resulting from the Act.

(i) "Costs of Issuance" mean the expenses incurred in connection with the sale and issuance of bonds, other short-term debt instruments, or loans approved by the Pooled Money Investment Board that are used to finance or refinance Grants, and accrued interest on any short-term debt instruments or loans which are not paid from another source.

(j) "Executive Director" means the Executive Director of the Authority.

(k) "Expansion of Health Care Access" means providing same services to additional patients or net additional or new Pediatric Services to existing or new patients.

- (l) “Final Allocation” means a Grant allocation approved by the Authority.
- (m) “First Funding Round” means the period of time prior to June 30, 2014.
- (n) “Going Concern Qualification” means a finding by an independent accounting firm that the carrying value of an entity’s assets will be realized and its liabilities will be liquidated in the ordinary course of continuing business activity.
- (o) “Government Health Insurance Programs” mean governmental assistance programs that include, but are not limited to, Medicaid (Medi-Cal), State Children’s Health Insurance Program (Healthy Families), California Children’s Services (CCS), Child Health and Disability Prevention Program (CHDP) and county indigent programs.
- (p) “Grant” means the distribution of money in the Children’s Hospital Fund, as defined in Section 1179.20 of the Health and Safety Code, by the Authority to a Children’s Hospital for a Project pursuant to the Children’s Hospital Program.
- (q) “Grant Agreement” means a written agreement for a Grant entered into between a Grantee and the Authority.
- (r) “Grantee” means an Applicant that has received Grant approval by the Authority.
- (s) “Improvement of Child Health Care” means an improvement in the timeliness, effectiveness, or quality of care provided to the pediatric population.
- (t) “Improvement of Health Care Access ” means an increase in the quantity and scope of Pediatric Services provided.
- (u) “Improvement of Pediatric Patient Outcomes” means an improvement in the overall health of the pediatric patients receiving treatment or care.
- (v) “Initial Allocation” means an Authority staff-level decision granting an allocation.
- (w) “Maximum Grant for the First Funding Round” means:
- (1) A limit of \$30 million less Costs of Issuance and Administrative Costs on the total amount of Grants that may be made to any one Children’s Hospital that is described in paragraph (1) of subdivision (g).
  - (2) A limit of \$74 million less Costs of Issuance on the total amount of Grants that may be made to any one Children’s Hospital that is described in paragraph (2) of subdivision (g).

(x) “Most Recent Audited Financial Statements” means the Audited Financial Statements for the most recent fiscal year for which such financial statements are available.

(y) “Non University of California Children’s Hospital” means a Children’s Hospital described in paragraph (2) of subdivision (g).

(z) “Pediatric Research Programs” means scientific research focused on the pediatric population to improve and/or better understand this population’s health.

(aa) “OSHPD” means the Office of Statewide Health Planning and Development.

(aa)(bb) “Pediatric Services” means services provided for children from birth to age 18. Exceptions to the age limit are allowed up to age 21 for children receiving treatment for a California Children’s Services eligible condition as described in Chapter 4 Sections 41811 through 41876, Title 2, of the California Code of Regulations

(bb)(cc) “Pediatric Teaching Program” means a program that annually provides medical education for at least eight (rounded to the nearest integer) full-time equivalent pediatric or pediatric subspecialty residents.

(ee)(dd) “Pooled Money Investment Board” means the Board established pursuant to Section 16480.1 of the Government Code.

(dd)(ee) “Project” means constructing, expanding, remodeling, renovating, furnishing, equipping, financing, or refinancing capital assets, as defined in Section 16727(a) of the Government Code, of a Children’s Hospital. Pursuant to the Act, this may include reimbursement for the costs of constructing, expanding, remodeling, renovating, furnishing, equipping, financing or refinancing where ~~such~~these costs are incurred after January 31, 2003. “Project” does not include Costs of Issuance for any financing or refinance of a project.

(ee)(ff) “Project Period” means a defined beginning and end date ~~to be~~ approved by the Authority for implementation of the Project.

(ff)(gg) “Second Funding Round” means the period of time after June 30, 2014, when Grants may be awarded from unexhausted funds made available pursuant to the Program.

(gg)(hh) “Total Grant Funds” means \$750 million less Administrative Costs and Costs of Issuance.

(hh)(ii) “Uncompensated Indigent Care” means care provided without a patient-specific source funding available to pay for the Pediatric Services rendered.

~~(ii)~~(jj) “Undercompensated Care” means care provided where a financial shortfall exists between gross expenses and the revenues (or payment) in treating a pediatric patient.

~~(jj)~~(kk) “University of California Children’s Hospital” means a Children’s Hospital described in paragraph (1) of subdivision (g).

~~(kk)~~(ll) “Vulnerable Pediatric Populations” means pediatric patients served by Government Health Insurance Programs and pediatric patients with special health care needs irrespective of insurance status.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.10, 1179.11, 1179.21, 1179.22, 1179.23, and 1179.24, 1179.30, 1179.38, and 1179.39 of the Health and Safety Code.

### **Section 7031. Eligible Children’s Hospital**

(a) Any Children’s Hospital shall be eligible to apply for one or more Grants if the following conditions are met:

- (1) The Children’s Hospital or the California nonprofit corporation of which the Children’s Hospital is an operating entity has a current, valid general acute care hospital license from the Department of Health Services.
- (2) The most Recent Audited Financial Statements of the Children’s Hospital or the California nonprofit corporation of which the Children’s Hospital is an operating entity do not contain any Going Concern Qualifications.
- (3) The Children’s Hospital has submitted to the Authority a completed Application Form.
- (4) The Authority, at its discretion, confirms with OSHPD that the non-University of California Children’s Hospital or the California nonprofit corporation of which the Children’s Hospital is an operating entity has submitted to OSHPD its Annual Disclosure Report for the fiscal year ending between June 30, 2001 and June 29, 2002, on or before July 1, 2003.

~~(5)~~ (5) — If the Children’s Hospital proposes to use Grant funds for a Project other than equipment acquisition on certain property, the Children’s Hospital shall provide ~~evidence that~~ either:

(A) -the Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity owns the property.

(B) The Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity is a lessee under a lease agreement that satisfies Section 7047.

(6) If the Children's Hospital proposes to use Grant funds for a Project that includes architect, design, and/or engineering fees, the Children's Hospital shall provide the Authority with reasonable assurance, at the Authority's discretion, that any of these fees are components of a larger Project that will ultimately benefit the health and welfare of California's sick and/or injured children. The Authority shall rely on timelines associated with the entire Project to assess whether or not the Project will benefit pediatric patients.

(7) If the Children's Hospital proposes to use Grant funds for the acquisition of real property, the Children's Hospital shall provide a valid, current, enforceable contingent purchase and sale agreement or option agreement between the Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity and the owner of the subject property, including evidence that all extensions necessary to keep the agreement current through the Final Allocation have been executed, if applicable. In addition, the Children's Hospital shall provide the Authority with reasonable assurance that the acquisition is a component of a larger Project that will ultimately benefit the health and welfare of California's sick and/or injured children, such as the construction of a new facility to benefit pediatric patients.

(b) If an Applicant does not meet ~~these~~ conditions described in (a), the Applicant shall be deemed ineligible, but may reapply at a time when the Applicant is able to meet the conditions.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.11, 1179.22, and 1179.24 of the Health and Safety Code

### **Section 7032. Maximum Grant, First Funding Round**

No Grant or combination of Grants to any Children's Hospital may exceed the Maximum Grant for the First Funding Round.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.23, 1179.24 of the Health and Safety Code.

### **Section 7033. Maximum Grant, Second Funding Round**

If grants are awarded pursuant to Section 7042, the process for determining Maximum Grants for the Second Funding Round shall be adopted ~~at a future date, but~~ no later than June 1, 2014, ~~as described in Section 7042.~~

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.23, and 1179.24 of the Health and Safety Code.

### **Section 7034. Application Form**

Blank Application Forms shall be available from the Authority and the Authority's website and may be referred to as the Children's Hospital Grant Application Form #CHFFA 5, Rev. 12-2004, which is hereby incorporated by reference. The Applicant shall submit a completed Application Form in the manner set forth in Sections 7035 and 7036 ~~of this chapter.~~ The Children's Hospital Overview and Instructions for Grant Application, Form #CHFFA 5A, Rev. 12-2004 ~~is~~are hereby incorporated by reference.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.24, and 1179.25 of the Health and Safety Code.

### **Section 7035. Application Form Submission**

Application Forms shall be submitted in duplicate to the Authority. The Authority ~~will~~shall accept Application Forms for the First Funding Round on an on-going basis until the funding for the Children's Hospital Program is exhausted. Applications are due the first business day of each month and will be presented to the Authority the following month pursuant to Section 7041. Each Applicant may apply for more than one Grant for different Projects until its Maximum Grant for the First Funding Round is reached. If necessary, Applications for the Second Funding Round ~~will~~shall be available ~~at a future date, but~~ no later than June 1, 2014.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22 and 1179.24 of the Health and Safety Code

### **Section 7036. Content of Application Form**

The following items shall accompany the Application Form:

(a) Financial Information. The Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity shall submit its Most Recent Audited Financial Statements.

(b) Organization Information.

(1) If the Applicant is a non-University of California Children's Hospital, the Applicant shall submit both of the following:

(A) A copy of the Applicant's 501(c)(3) determination letter from the Internal Revenue Service and a copy of either the tax-exemption letter or Letter of Good Standing from the Franchise Tax Board. For Children's Hospitals that are operating entities of a California nonprofit corporation, the Internal Revenue Service and Franchise Tax Board Letters are required for the parent corporation.

(B) A copy of the Applicant's Articles of Incorporation and Bylaws. For Children's Hospitals that are operating entities of a California nonprofit corporation, the Articles of Incorporation and Bylaws are required for the parent corporation.

(2) For all Applicants, a copy of its current general acute care hospital license from the Department of Health Services or a copy of the general acute care hospital license of the California nonprofit corporation of which the Children's Hospital is an operating entity.

(c) Legal Information. Applicant shall complete a legal status questionnaire. ~~the attachment within the Application Form requiring the Applicant to fully disclose certain legal information.~~

(d) Agreement and Certification. Within the Application Form and as memorialized in a separate Grant Agreement, the Chief Executive Officer, Chief Financial Officer or other authorized officer of the Applicant, on behalf of the Applicant,



shall agree and certify to the following terms and conditions as a requirement of receiving any Grant:

- (1) The information contained in the Application Form and attachments is true and correct to the best of its knowledge and belief and understands that any misrepresentation may result in the cancellation of a Grant and other actions permitted by law and the Grant Agreement.
- (2) Applicant may be required to return all or a portion of the Grant including any unused investment earnings if the Applicant fails to complete the Project as approved. In cases where the Grant will fund architect, design, or engineering fees or land acquisition costs as part of an approved Project, the Applicant may be required to return all Grant funds and any unused investment earnings if the Authority cannot determine that the associated larger Project has been completed, based on timelines provided within the Application Form.
- (3) Grant funds will only be used for the Project described in the Application Form unless a change in the Project is approved in writing by the Authority pursuant to Section 7043.
- (4) The Project and financial records of the Applicant's Project are subject to audit and inspection by the Authority and the Bureau of State Audits.
- (5) Applicant has ~~either~~ disclosed all ~~legal~~ information requested by the legal status questionnaire. ~~or has no legal information to disclose.~~
- (6) Applicant will notify the Authority in writing at the time of Project completion with evidence of completion included.
- (7) Applicant will provide all documents and information required by law and meet all necessary requirements prior to the release of the Grant.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.24 1179.25, and 1179.32 of the Health and Safety Code.

## Section 7037. Application Form Evaluation

- (a) Application Forms shall be reviewed and evaluated within 60 days from receipt by Authority staff according to the evaluation criteria ~~set forth under~~ described in Section 7038.

In addition to the other Application Form criteria, a positive response or combination of positive responses to the legal status questionnaire may result in the applicant's disqualification from consideration for a Grant.

- ~~(b) In addition to the other Application Form criteria, a response or combination of responses in the legal disclosure section that the Authority determines would do any of the following may result in disqualification from consideration for a Grant.~~

- ~~(1) Adversely impact the viability of Project completion.~~
- ~~(2) Adversely impact the Applicant's ability to manage the proposed Project.~~
- ~~(3) Demonstrates the integrity of the Applicant is seriously compromised.~~
- ~~(4) Demonstrates the integrity and/or judgment of senior management of Applicant is seriously compromised.~~

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. References: Sections 1179.22, and 1179.24 of the Health and Safety Code.

## Section 7038. Evaluation Criteria

Authority staff shall evaluate each Application Form based on the following ~~factors~~ criteria.

- (a) How well the Project contributes to both of the following:
- (1) Expansion or Improvement of Health Care Access by children eligible for Governmental Health Insurance Programs and indigent, underserved, and uninsured children.
  - (2) Improvement of Child Health Care or Improvement of Pediatric Patient Outcomes.
- (b) How well the Applicant does any or all of the following:

- (1) Provides Uncompensated Indigent Care or Undercompensated Care to eligible pediatric patients.
- (2) Provides services to Vulnerable Pediatric Populations.
- (3) Promotes Pediatric Teaching Programs or Pediatric Research Programs.

(c) How well the Applicant demonstrates Project readiness and feasibility based upon the following:

- (1) A Pproject timeline that includes the, based upon the following:
  - (A) An Expected start date (e.g. construction start date(s) and/or equipment purchase date(s)).
  - (B) An expected completion date (e.g. construction completion date(s), acquisition completion dates, and/or equipment installation date(s)).
  - (C) Problems anticipated in implementing the Project and how problems will be managed to ensure timely completion.
- (2) Whether the Project is feasible after a review of all of the following:
  - (A) For all Projects with the exception of equipment acquisition projects, the AApplicant shall submit estimates of Project costs and evidence of property ownership or, if the property is leased to a Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, a copy of a lease agreement that satisfies the requirements of Section 7047. The Applicant shall also provide building permits and/or executed construction contracts, if available. An Applicant with a Project that does not yet have an executed construction contract or building permit but is actively in the process of obtaining one, shall provide a detailed statement that explains the status of obtaining the document.
  - (B) For all Projects involving architect, design and engineering fees to be paid with Grant funds, the AApplicant shall submit estimates of Project costs and a draft of all applicable architect, design and engineering contracts. In addition, if the Grant will be used to pay for architect,

design and engineering fees as part of an approved Project, the Applicant shall provide a timeline that specifies when the entire Project will be complete.

- (C) For Projects that include the acquisition of real property, ~~the A~~Applicant shall submit a copy of an executed ~~real estate contract~~purchase and sale agreement or status of obtaining one or other evidence of site control to the satisfaction of the Authority. In addition, if the Grant will be used to pay for real property acquisition costs as part of an approved Project, the Applicant shall provide a timeline that specifies when the entire Project will be complete.
- (D) For equipment acquisition projects, ~~the A~~Applicant shall submit a specific list of items and cost estimates of equipment or copies of invoices, and if applicable, cost estimates of installation of such equipment.
- (E) If funding sources other than the Grant are required to complete the Project, Applicant shall provide approval or commitment letters from the other funding sources, confirming that the funding is secured and available in accordance with the Project timeline and budget.

(3) Whether implementation of the project is feasible: ~~Feasibility of implementing a Project:~~

- (A) ~~The A~~Applicant shall submit plans for Project implementation that includes credible staffing, operations and reimbursement figures. If the Project will result in an expansion of services, ~~the A~~Applicant shall provide an organization chart identifying key personnel for the expanded services.
- (B) ~~The A~~Applicant shall submit a third-party prepared feasibility study, funding letters or other documentation to demonstrate that the Project will generate sufficient revenues to provide on-going support for new or expanded services and/or research programs. If revenues generated by the Project will be insufficient, ~~the A~~Applicant's revenues shall be sufficient, as determined by Authority staff, to provide on-going support.
- (C) When applicable, ~~the A~~Applicant shall submit evidence that it is in compliance with the California Environmental

Quality Act and all applicable governmental codes for all Projects.

(d) The sources and uses of funds: ~~as described below:~~

(1) The AApplicant shall detail all sources of funds required to complete the proposed Project. Sources may include, but are not limited to, the total Grant request, borrowed funds, internal assets, and other sources. If the Project, or a portion of the Project, has been or will be submitted to other lenders or grantors for funding, the AApplicant shall list them and the status of their consideration.

(2) The AApplicant shall detail the uses of all funds required to complete the proposed Project. The total uses shall not exceed the total of all available fund sources. In some instances, funds from sources other than the Grant may be used for portions of a proposed Project that would otherwise be ineligible for this Grant. In those instances, the Applicant shall describe specifically how the Grant funds, as well as other grants, loans, or internal funds, will be used to ensure Grant funds will not subsidize Project elements not eligible for such funds. Where a Project includes elements required to serve non-pediatric populations, the Grant funds shall be limited only to the proportionate cost of providing care to the pediatric population. The Authority shall determine the appropriate manner in which the proportionate share use will be evaluated.

If a proposed Project will benefit both pediatric and non-pediatric patients, the total Grant for that Project cannot exceed the proportionate share use of the pediatric population. For such Projects, the Authority staff shall determine the amount of Grant funds to be awarded based on proportionate use and any other factors related to improvement of pediatric population care.

(e) The financial capacity of the Applicant based upon a review of the Most Recent Audited Financial Statements supplied pursuant to paragraph (2) of subdivision (a) of Section 7031 to ensure that the status of the Applicant is financially sound as of the date of such audit.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. References: Sections 1179.22, 1179.24 and 1179.25 of the Health and Safety Code.

### **Section 7039. Notification and Initial Allocation**

The Authority shall notify each Applicant in writing, stating the amount of each Initial Allocation.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.23, 1179.24 of the Health and Safety Code.

### **Section 7040. Appeals**

- (a) Availability. An Applicant may file an appeal of any Initial Allocation. The grounds for any such appeal shall be limited to Applicant eligibility pursuant to Section 7031 and whether the proposed expense is for a Project as defined in (dd) of Section 7030. No Applicant may appeal the Authority staff evaluation of, or Initial Allocation to, another Applicant.
- (b) Timing. The appeal shall be submitted in writing and shall be received by the Authority not later than ten (10) calendar days following the transmittal date of the notification of Initial Allocation.
- (c) Review. The Authority staff shall review the written appeal based upon the existing documentation submitted by the Applicant when the Application Form was filed and any other information the Authority staff requests of the Applicant. The Authority staff shall make a finding as to the merit of the appeal and shall notify the Applicant as to the decision no later than ten (10) calendar days after the receipt of an appeal. In the event that the Authority staff does not approve an appeal, the Applicant may further appeal to the Authority. ~~The A~~Applicant shall notify the Executive Director in writing no later than ten (10) calendar days prior to the next regularly scheduled Authority meeting that the Applicant intends to further appeal to the Authority. Any such appeal shall be presented by the Applicant, in person, at the next regularly scheduled Authority meeting.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22 and 1179.24 of the Health and Safety Code.

#### **Section 7041. Approval of Grant and Notification of Grantee**

When an Initial Allocation for funding has been determined, Authority staff shall recommend to the Authority at its regularly scheduled meeting, that the Initial Allocation for consideration be approved as a Final Allocation. Any Final Allocation approved by the Authority at the same meeting shall be awarded as Grants to Grantees. Grantees shall be notified within five (5) business days of the same meeting in writing of the Grant approval.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.24, and 1179.25 of the Health and Safety Code.

#### **Section 7042. Any Remaining Funds**

If there are any remaining funds after the First Funding Round, the Authority may, in its sole discretion, award Grants of those remaining funds to Applicants in the Second Funding Round in a manner that is consistent with the purpose and requirements of the Children's Hospital Program.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.24 and 1179.25 of the Health and Safety Code.

#### **Section 7043. Approval of Grant Use Change**

The Authority or the Authority staff may, on a case-by-case basis, consider a change in the use of the Grant if the Grantee demonstrates, to the Authority or the Authority staff's satisfaction, that the change is consistent with the Act and this chapter.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.24 and 1179.25 of the Health and Safety Code.



## Section 7044. Grant Agreements

The terms and conditions of a Grant shall be set forth in a Grant Agreement, which shall include, but not be limited to, all of the following terms and conditions:

- (a) A Grant amount not greater than \$30 million (less Administrative Costs and Costs of Issuance) for University of California Children's Hospitals or \$74 million (less Costs of Issuance) for all ~~other eligible~~ Non University of California Children's Hospitals.
- (b) A Project Period, ~~as approved by the Authority.~~
- (c) Disbursement procedures pursuant to Section 7045 or Section 7046, as applicable.
- (d) A provision that any unused Grant funds and any unused investment earnings on such Grant funds shall revert to the Authority.
- (e) Agreement to comply with the Children's Hospital Program and these regulations.
- (f) Agreement that the Grantee will defend, indemnify and hold harmless the Authority and the state, and all officers, trustees, agents and employees of the same, from and against any and all claims, losses, costs, damages, or liabilities of any kind or nature, whether direct or indirect, arising from or relating to the Grant, the Project or the Act.
- (g) Agreement to comply with state and federal laws outlawing discrimination, including, but not limited to those prohibiting discrimination because of sex, race, color, ancestry, religion, creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (including cancer or genetic characteristics), sexual orientation, political affiliation, position in a labor dispute, age, marital status, and denial of statutorily-required employment-related leave.
- (h) Agreement that continued compliance with Children's Hospital Program requirements is the Grantee's responsibility.
- (i) Agreement that the Grant shall only be used for Projects as described in Grantee's Application Form and approved by the Authority.
- (j) Any audit provisions.
- (k) Any provision necessary to ensure that interest on the bonds is tax-exempt.
- (l) Agreement that the Grantee will not dispose of any component of the Project before the end of useful life of that component of the Project.

| (m) Any provisions relating to lease agreements pursuant to Section 7047.

| (m)(n) Any other provisions required by the Authority.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. References: Sections 1179.22, 1179.24, and 1179.25 of the Health and Safety Code.

**Section 7045. Release of Funds for Non-University of California Children's Hospitals.**

- (a) No Grant shall be released to a Non-University of California Children's Hospital until the following information has been provided to the satisfaction of Authority staff:
- (1) For all Projects with the exception of equipment acquisition projects, any supporting documentation that was incomplete with the Application Form shall be finalized and submitted along with a copy of the executed construction contract and the building permit.
  - (2) For Projects that include architect, design and engineering fees to be paid with Grant proceeds, all applicable executed architect, design and engineering contracts.
  - (3) For real property acquisition Projects, a copy of the executed ~~real estate purchase contract~~purchase and sale agreement and a copy of an appraisal, the appraised value of which (when added to the amount of reasonable transaction and closing costs) shall not be less than the sum of the Grant and all other funding sources necessary to acquire the Project. The appraisal shall be no older than six months and shall be completed by a state certified appraiser.
  - (4) For equipment acquisition Projects, any supporting documentation that was incomplete when the Application Form was submitted or not provided at that time shall be finalized and submitted along with a list of items to be purchased and all purchase orders.
  - (5) Evidence that all other funds, if needed, are in place to complete Project.

- (6) Evidence of property ownership for all construction Projects or if the property is leased to a Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, a copy of a lease agreement that satisfies the requirements of Section 7047.
  - (7) An executed Grant Agreement.
  - (8) When applicable, evidence that there are no outstanding issues related to the California Environmental Quality Act and any other applicable governmental codes, if this information was not provided with the Application Form.
- (b) Documentation provided for the release of Grant funds shall clearly show that the Grant award does not exceed the cost of the Project.
- (c) Grant funds shall be released on a periodic basis, upon receipt of draw requests, which shall include credit for investment earnings on any previously released portion of Grant.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.11, 1179.22, 1179.24, and 1179.25 of the Health and Safety Code.

#### **Section 7046. Release of Funds for University of California Children's Hospitals.**

- (a) No Grant shall be released to a University of California Children's Hospital until the following has been provided to the satisfaction of Authority staff:
- (1) For all Projects (including Projects with architect, design and engineering fees) with the exception of equipment acquisition projects, all Project documentation of expenditures, including copies of cancelled checks that represent payment to contractors. The GGantee shall provide evidence of property ownership for all Projects or if the property is leased to a Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, a copy of a lease agreement that satisfies the requirements of Section 7047, if this documentation was not submitted with the Application Form.
- If the Grantee does not provide copies of cancelled checks, the Grantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.

(2) For real property acquisition Projects, a copy of the final closing statement with certification by the title company and a copy of an appraisal, the appraised value of which (when added to the amount of reasonable transaction and closing costs) shall not be less than the sum of the Grant and all other funding sources necessary to acquire the Project. The appraisal shall be completed by a state certified appraiser.

(3) For equipment acquisition Projects, complete packages of contracts organized by vendor to include purchase orders, invoices and copies of cancelled checks. Separate checks ~~must~~shall be issued for Project expenditures and may not include payment for non-Project costs as part of an overall payment to a vendor for Project and non-Project costs.

If the Grantee does not provide copies of cancelled checks, the Grantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.

(4) When applicable, evidence that there are no outstanding issues relating to the California Environmental Quality Act and any other applicable governmental codes, if this information was not provided with Application Form.

(b) Documentation provided for the release of Grant funds shall clearly show that the Grant award did not exceed the cost of the Project.

(c) Grant funds shall be released on a periodic basis, upon receipt of draw requests, based on a listing of expenditures made on the Project and not previously reimbursed.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.11, 1179.22, 1179.24, and 1179.25 of the Health and Safety Code.

**Section 7047. Requirements for Construction Projects on Leased Property.**

(a) If a Children's Hospital proposes to use Grant funds for a Project other than equipment acquisition on property where the Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity is a lessee under a lease agreement, the following requirements shall be satisfied prior to any release of Grant funds pursuant to Sections 7045 or 7046:

- (1) The lease agreement shall provide the Children’s Hospital or the California nonprofit corporation of which the Children’s Hospital is an operating entity, as lessee, full access to the site to carry on its healthcare purposes.
- (2) The term of the lease agreement must meet one of the following:

  - (A) The term of the lease agreement shall be at least 5 years beyond the longest useful life of the Project under the Grant.
  - (B) If the landlord under the lease agreement is an Affiliate, the initial term of the lease agreement must be at least 74% of the useful life of the Project under the Grant, and include provisions for the extension or renewal of the term of the lease agreement for a total lease term (including such extensions and renewals) at least equal to 5 years beyond the longest useful life of the Project under the Grant.
- (3) A current title report on the site, brought up to date as of the effective date of the lease agreement shall be provided to the Authority. The title report shall show all of the following:

  - (A) No delinquent taxes or assessments or, if there are delinquent taxes or assessments, these are being contested in good faith and the Children’s Hospital has set aside on its books adequate reserves to pay these taxes or assessments.
  - (B) No easements, exceptions or restrictions on the use of the site that will interfere with or impair the operation of the Project.
  - (C) No superior liens (deeds of trust or other rights) in the property. If there are any superior liens, they shall be subordinated to the lease agreement. The lease agreement shall provide that any subsequent encumbrance on the property (e.g. deed of trust) or sale of the property shall be subject to the lease agreement.
- (4) Any one of the following shall be satisfied:

  - (A) The lease agreement shall provide for a nominal rent (e.g. \$1 per year).

- (B) Full rent under the lease agreement shall be paid in a lump sum up front.
- (C) The Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity shall covenant in the Grant Agreement to budget for payment of rent each year.

- (5) The lease agreement shall provide that the only remedy for any default, including failure to pay rent, by lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity is suit for rent or specific performance to remedy any specific breach. The landlord's remedies for any default by lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity may not include cancellation of lease agreement, retaking of property or eviction of the lessee.
- (6) The lease agreement shall provide for either one of the following:
- (A) The lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity is obligated to pay all taxes and assessments on the property.
- (B) The landlord will provide the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity with notice of any failure to pay taxes or assessments on the property and an opportunity for the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity to cure the failure.
- (7) The landlord shall demonstrate that the lease agreement is legally authorized and has been properly approved and executed and enforceable against the landlord. The landlord shall provide a legal opinion of qualified counsel to this effect that is acceptable to the Authority.
- (8) The lessee Children's Hospital shall demonstrate that the lease agreement is legally authorized and has been properly approved and executed and enforceable against the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity. Lessee Children's Hospital shall provide a legal opinion of qualified counsel to this effect that is acceptable to the Authority.

(9) (A) Except as provided in (B), the Children's Hospital shall provide a legal opinion that either: (i) the landlord is a special purpose entity which cannot enter bankruptcy proceedings under the federal Bankruptcy Code, or (ii) the lease agreement will not be an executory contract and cannot be rejected by the landlord in the event of bankruptcy. The legal opinion shall be acceptable to the Authority.

(B) For so long as the landlord is an Affiliate of lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity, the requirements of (A) shall not be required to be satisfied.

(10) The Grant Agreement shall provide that if the lease agreement is terminated prior to the term provided in (2) above and the property that was subject to the lease agreement is not simultaneously re-leased under a new lease agreement that complies with the requirements of this Section 7047 or fee title to the property that was subject to the lease agreement is not simultaneously transferred to the Children's Hospital, the Authority is entitled to recover the Grant funds pursuant to Section 7049.

(11) When a Project on leased property includes improvements to any common areas that are shared with other tenants or areas that are not leased by the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity under the lease agreement, the Grant funds shall be limited only to the proportionate costs of the Project which exclude the costs related to such areas.

(12) Prior to approval of the Grant by the Authority, the Applicant shall submit the proposed lease agreement for review and demonstrate compliance with all of the above conditions and any other conditions required by the Authority.

(b) For purposes of this section, "Affiliate" means an entity which, directly or indirectly through one or more intermediaries, is controlled by or is under common control with the lessee Children's Hospital or the California nonprofit corporation of which the Children's Hospital is an operating entity.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.24, and 1179.25 of the Health and Safety Code.



**Section 70478. Completion of Grant Funded Project.**

(a) The Grantee shall certify to the Authority that the Project is complete and, to the extent not already provided to the Authority, provide supporting documentation to the satisfaction of the Authority as follows:

(1) Construction projects (including Projects with architect, design and engineering fees) require documentation including, but not limited to, copies of the certificate of occupancy, final payment certification by the architect, final payment request from the contractor and corresponding copies of cancelled checks. If the Grantee does not provide copies of cancelled checks, the Grantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.

(2) Real property acquisition Projects require a copy of the final closing statement with certification by the title company.

(3) Equipment acquisition projects require complete packages of contracts organized by vendor to include, purchase orders, invoices and copies of cancelled checks. Separate checks ~~must~~shall be issued for Project expenditures and may not include payment for non-Project costs as part of an overall payment to a vendor for Project and non-Project costs.

If the Grantee does not provide copies of cancelled checks, the Grantee shall provide wire transfers, electronic fund transfers or other evidence acceptable to the Authority in lieu of copies of cancelled checks.

(b) If the Grantee fails to complete the Project within the Project Period, the Authority may require remedies, including forfeiture and return of the Grant to the Authority.

(c) On a case-by-case basis, the Authority or the Authority staff may extend the Project Period for extraordinary or unavoidable delays where the Grantee can demonstrate that it occurred through no fault of its own.

(d) Documentation provided to establish the completion of a Project shall clearly show that the Grant award did not exceed the cost of the Project.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22, 1179.24, and 1179.25 of the Health and Safety Code.

**Section 704~~89~~. Recovery of Funds for Non-Performance and Unused Funds.**

- (a) If the Authority determines that Grants were not used consistent with Children's Hospital Program requirements and the terms of the Grant Agreement for an approved Project, the Authority may require remedies, including a return of all Grant funds.

In cases where Grant funds paid for a component of a Project that does not specifically benefit pediatric patients, such as architect, design or engineering fees or land acquisition costs, and if the Authority determines the Grantee did not complete a larger Project as described in the timelines provided with the Application, the Authority may require remedies, including a return of all Grant funds.

- (b) If any portion of the Grant is forfeited to the Authority, the forfeited funds shall be deemed remaining funds for purposes of Section 7042.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: ~~Section~~ Sections 1179.22, 1179.24, and 1179.25 of the Health and Safety Code.

**~~Section 7049. Unused Funds~~**

~~If any portion of the Grant is forfeited to the Authority, the forfeited funds shall be deemed remaining funds for purposes of Section 7042.~~

~~NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Sections 1179.22 and 1179.24 of the Health and Safety Code.~~

| **Section 70~~50~~49.5. Audits**

The Bureau of State Audits and Authority staff may conduct periodic audits to ensure Grantees are using Grants consistent with the Children's Hospital Program requirements and the terms of the Grant Agreement for an approved Project. Grantees shall retain all Children's Hospital Program documentation and financial data necessary to substantiate the purposes for which the Grant funds were spent for a period of three years after the certification of completion of the Project has been submitted or until June 30, 2017, whichever is later.

NOTE: Authority Cited: Sections 1179.22, 1179.24 and 1179.32 of the Health and Safety Code. Reference: Section 1179.25 of the Health and Safety Code.